

103^D CONGRESS
2^D SESSION

H. R. 4274

To modify certain provisions of the Health Care Quality Improvement Act
of 1986.

IN THE HOUSE OF REPRESENTATIVES

APRIL 21, 1994

Mr. WYDEN (for himself and Mr. Klug) introduced the following bill; which
was referred to the Committee on Energy and Commerce

A BILL

To modify certain provisions of the Health Care Quality
Improvement Act of 1986.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Health Care Quality
5 Improvement Act Amendments of 1994”.

6 **SEC. 2. STANDARDS FOR PROFESSIONAL REVIEW ACTIONS.**

7 Section 412(a) of the Health Care Quality Improve-
8 ment Act of 1986 (42 U.S.C. 11112(a)) is amended in
9 the matter after and below paragraph (4) by adding at
10 the end the following sentences: “A motion for a summary

1 judgment that such standards have been met shall be
 2 granted unless, considering the evidence in the light most
 3 favorable to the opposing party, a reasonable finder of fact
 4 could conclude that the presumption has been so rebutted.
 5 The decision on such a motion may be appealed as of
 6 right, without regard to whether the motion is granted or
 7 denied, and the courts of appeals (other than the United
 8 States Court of Appeals for the Federal Circuit) have ju-
 9 risdiction of appeals from such decisions of the district
 10 courts.”.

11 **SEC. 3. REQUIRING REPORTS ON MEDICAL MALPRACTICE**

12 **DATA.**

13 (a) IN GENERAL.—Section 421 of the Health Care
 14 Quality Improvement Act of 1986 (42 U.S.C. 11131) is
 15 amended—

16 (1) by striking subsections (a) and (b);

17 (2) by redesignating subsections (c) and (d) as
 18 subsections (d) and (e), respectively; and

19 (3) by inserting before subsection (d) (as so re-
 20 designated) the following subsections:

21 “(a) IN GENERAL.—

22 “(1) REQUIREMENT OF REPORTING.—Subject
 23 to the subsequent provisions of this subsection, each
 24 person or entity which makes payment under a pol-
 25 icy of insurance, self-insurance, or otherwise in set-

1 tlement (or partial settlement) of, or in satisfaction
2 of a judgment in, a medical malpractice action or
3 claim shall report, in accordance with section 424,
4 information respecting the payment and cir-
5 cumstances thereof.

6 “(2) PAYMENTS BY PRACTITIONERS.—The per-
7 sons to whom the requirement of paragraph (1)
8 applies include a physician or other licensed health
9 care practitioner who makes a payment described in
10 such paragraph and whose acts or omissions are the
11 basis of the action or claim involved. The preceding
12 sentence is subject to paragraph (3).

13 “(3) REFUND OF FEES.—With respect to a
14 physician or other licensed health care practitioner
15 whose acts or omissions are the basis of an action
16 or claim described in paragraph (1), the requirement
17 of such paragraph shall not apply to a payment de-
18 scribed in such paragraph if—

19 “(A) the payment is made by the physician
20 or practitioner as a refund of fees for the health
21 services involved, and

22 “(B) the payment does not exceed the
23 amount of the original charge for the health
24 services.

1 “(4) DEFINITION OF ENTITY AND PERSON.—

2 For purposes of this section, the term ‘entity’ in-
3 cludes the Federal Government, any State or local
4 government, and any insurance company or other
5 private entity; and the term ‘person’ includes Fed-
6 eral officers and employees.

7 “(b) INFORMATION TO BE REPORTED.—The infor-
8 mation to be reported under subsection (a) by a person
9 or entity regarding a payment and an action or claim in-
10 cludes the following:

11 “(1)(A) The name of each physician or other li-
12 censed health care practitioner whose acts or omis-
13 sions were the basis of the action or claim; and (to
14 the extent authorized under title II of the Social Se-
15 curity Act) the social security account number as-
16 signed to the physician or practitioner.

17 “(B) If the physician or practitioner could not
18 be identified for purposes of subparagraph (A)—

19 “(i) a statement of such fact and an expla-
20 nation of the inability to make the identifica-
21 tion, and

22 “(ii) the name of the hospital or other
23 health services organization (as defined in sec-
24 tion 431) for whose benefit the payment was
25 made.

1 “(2) The amount of the payment.

2 “(3) The name (if known) of any hospital or
3 other health services organization with which the
4 physician or practitioner is affiliated or associated.

5 “(4)(A) A statement describing the acts or
6 omissions and injuries or illnesses upon which the
7 action or claim was based.

8 “(B) A statement by the physician or practi-
9 tioner regarding the action or claim, if the physician
10 or practitioner elects to make such a statement.

11 “(C) If the payment was made without the con-
12 sent of the physician or practitioner, a statement
13 specifying such fact and the reasons underlying the
14 decision to make the payment without such consent.

15 “(5) Such other information as the Secretary
16 determines is required for appropriate interpretation
17 of information reported under this section.

18 “(c) CERTAIN REPORTING CRITERIA; NOTICE TO
19 PRACTITIONERS.—

20 “(1) REPORTING CRITERIA.—In establishing
21 criteria under section 424(a) for reports under this
22 section, the Secretary shall establish criteria regard-
23 ing statements under subsection (b)(4). Such criteria
24 shall include—

1 “(A) criteria regarding the length of each
2 of the statements,

3 “(B) criteria regarding the notice required
4 by paragraph (2) of this subsection, and

5 “(C) such other criteria as the Secretary
6 determines to be appropriate.

7 “(2) NOTICE OF OPPORTUNITY TO MAKE
8 STATEMENT.—In the case of an entity that prepares
9 a report under subsection (a)(1) regarding a pay-
10 ment and an action or claim, the entity shall notify
11 any physician or practitioner identified under sub-
12 section (b)(1)(A) of the opportunity to make a state-
13 ment under subsection (b)(4)(B). Criteria under
14 paragraph (1)(B) of this subsection shall include cri-
15 teria regarding the date by which the reporting en-
16 tity is to provide the notice and the date by which
17 the physician or practitioner is to submit the state-
18 ment to the entity.”.

19 (b) DEFINITION OF HEALTH SERVICES ORGANIZA-
20 TION.—Section 431 of the Health Care Quality Improve-
21 ment Act of 1986 (42 U.S.C. 11151) is amended—

22 (1) by redesignating paragraphs (5) through
23 (14) as paragraphs (6) through (15), respectively;
24 and

1 (2) by inserting after paragraph (4) the follow-
2 ing paragraph:

3 “(5) The term ‘health services organization’
4 means an entity that, directly or through contracts,
5 provides health services. Such term includes hos-
6 pitals; health maintenance organizations and other
7 health plans; and health care entities (as defined in
8 paragraph (4)).”.

9 (c) CONFORMING AMENDMENTS.—

10 (1) IN GENERAL.—The Health Care Quality
11 Improvement Act of 1986 (42 U.S.C. 11101 et seq.)
12 is amended—

13 (A) in section 411(a)(1), in the matter pre-
14 ceding subparagraph (A), by striking “431(9)”
15 and inserting “431(10)”;

16 (B) in section 421(d) (as redesignated by
17 subsection (a)(2) of this section), by inserting
18 “person or” before “entity”;

19 (C) in section 422(a)(2)(A), by inserting
20 before the comma at the end the following: “,
21 and (to the extent authorized under title II of
22 the Social Security Act) the social security ac-
23 count number assigned to the physician”; and

24 (D) in section 423(a)(3)(A), by inserting
25 before the comma at the end the following: “,

1 and (to the extent authorized under title II of
2 the Social Security Act) the social security ac-
3 count number assigned to the physician or
4 practitioner”.

5 (2) APPLICABILITY OF REQUIREMENTS TO FED-
6 ERAL ENTITIES.—

7 (A) Section 432 of the Health Care Qual-
8 ity Improvement Act of 1986 (42 U.S.C.
9 11152) is amended—

10 (i) by striking subsection (b); and

11 (ii) by redesignating subsection (c) as
12 subsection (b).

13 (B) Section 423 of the Health Care Qual-
14 ity Improvement Act of 1986 (42 U.S.C.
15 11133) is amended by adding at the end the
16 following subsection:

17 “(e) APPLICABILITY TO FEDERAL FACILITIES AND
18 PHYSICIANS.—

19 “(1) IN GENERAL.—Subsection (a) applies to
20 Federal health facilities (including hospitals) and ac-
21 tions by such facilities regarding the competence or
22 professional conduct of Federal physicians to the
23 same extent and in the same manner as such sub-
24 section applies to health care entities and profes-
25 sional review actions.

1 “(2) RELEVANT BOARD OF MEDICAL EXAMIN-
2 ERS.—For purposes of paragraph (1), the Board of
3 Medical Examiners to which a Federal health facility
4 is to report is the Board of Medical Examiners of
5 the State within which the facility is located.”.

6 (C) Section 425 of the Health Care Qual-
7 ity Improvement Act of 1986 (42 U.S.C.
8 11135) is amended by adding at the end the
9 following subsection:

10 “(d) APPLICABILITY TO FEDERAL HOSPITALS.—
11 This section applies to Federal hospitals to the same ex-
12 tent and in the same manner as such subsection applies
13 to other hospitals.”.

14 **SEC. 4. REPORTING OF SANCTIONS TAKEN BY BOARDS OF**
15 **MEDICAL EXAMINERS.**

16 Section 422(a)(1)(A) of the Health Care Quality Im-
17 provement Act of 1986 (42 U.S.C. 11132(a)(1)(A)) is
18 amended by striking “which revokes or suspends” and in-
19 serting “which denies, revokes, or suspends”.

20 **SEC. 5. DUTY TO OBTAIN INFORMATION.**

21 Part B of the Health Care Quality Improvement Act
22 of 1986 (42 U.S.C. 11131 et seq.) is amended by inserting
23 after section 425 the following section:

1 **“SEC. 425A. DUTY OF BOARDS OF MEDICAL EXAMINERS TO**
2 **OBTAIN INFORMATION.**

3 “(a) IN GENERAL.—Effective 2 years after the date
4 of the enactment of the Health Care Quality Improvement
5 Act Amendments of 1994, it is the duty of each Board
6 of Medical Examiners to request from the Secretary (or
7 the agency designated under section 424(b)) information
8 reported under this part concerning a physician—

9 “(1) at the time the physician submits the ini-
10 tial application for a physician’s license in the State
11 involved, and

12 “(2) at each time the physician submits an ap-
13 plication to continue in effect the license, subject to
14 subsection (d).

15 A Board of Medical Examiners may request information
16 reported under this part concerning a physician at other
17 times.

18 “(b) FAILURE TO OBTAIN INFORMATION.—With re-
19 spect to an action for mandamus or other cause of action
20 against a Board of Medical Examiners, a Board which
21 does not request information respecting a physician as re-
22 quired under subsection (a) is presumed to have knowl-
23 edge of any information reported under this part to the
24 Secretary with respect to the physician.

25 “(c) RELIANCE ON INFORMATION PROVIDED.—With
26 respect to a cause of action against a Board of Medical

1 Examiners, each Board of Medical Examiners may rely
2 upon information provided to the Board under this title,
3 unless the Board has knowledge that the information pro-
4 vided was false.

5 “(d) STATE OPTION REGARDING CONTINUATION OF
6 LICENSES.—

7 “(1) ESTABLISHMENT OF ELECTRONIC SYSTEM
8 FOR TRANSMISSION OF DATA.—After consultation
9 with the States, the Secretary shall establish a sys-
10 tem for electronically transmitting information under
11 this part to States that elect to install equipment
12 necessary for participation in the system. The sys-
13 tem shall possess the capability to receive trans-
14 missions of data from such States.

15 “(2) STATE OPTION REGARDING ELECTRONIC
16 SYSTEM.—With respect to compliance with sub-
17 section (a)(2) (relating to applications to continue in
18 effect physicians’ licenses), if a State is participating
19 in the system under paragraph (1) and provides the
20 Board of Medical Examiners of the State with ac-
21 cess to the system, the Board may elect, in lieu of
22 complying with subsection (a)(2), to comply with
23 paragraph (3) of this subsection.

1 “(3) DESCRIPTION OF OPTION.—For purposes
2 of paragraph (2), a Board of Medical Examiners is
3 complying with this paragraph if—

4 “(A) through the system under paragraph
5 (1), the Board annually transmits to the Sec-
6 retary (or the agency designated under section
7 424(b)) data identifying all individuals who
8 hold a valid physician’s license issued by the
9 Board, without regard to whether the licenses
10 are expiring, and

11 “(B) after receiving from the Secretary (or
12 such agency) a list of physicians under para-
13 graph (4)(B), the Board complies with para-
14 graph (5).

15 “(4) IDENTIFICATION BY SECRETARY OF REL-
16 EVANT PHYSICIANS.—After receiving data under
17 paragraph (3)(A) from a Board of Medical Examin-
18 ers, the Secretary (or the agency designated under
19 section 424(b)) shall—

20 “(A) from among the physicians identified
21 through the data, determine which of such phy-
22 sicians has been the subject of information re-
23 ported under this part, and the State in which
24 the incidents involved occurred, and

1 “(B) provide to the Board, through the
2 system under paragraph (1), a list of the physi-
3 cians who have been such subjects, which list
4 specifies for each physician the States in which
5 the incidents involved occurred.

6 “(5) REQUEST BY STATE OF INFORMATION ON
7 RELEVANT PHYSICIANS.—For purposes of paragraph
8 (3)(B), a Board of Medical Examiners of a State is
9 complying with this paragraph if, after receiving the
10 list of physicians under paragraph (4)(B), the Board
11 promptly—

12 (A) identifies which of the physicians has
13 had, for purposes of paragraph (4), an incident
14 in another State, and

15 (B) requests from the Secretary (or the
16 agency) information reported under this part
17 concerning each of the physicians so identi-
18 fied.”.

19 **SEC. 6. ADDITIONAL PROVISIONS REGARDING ACCESS TO**
20 **INFORMATION; MISCELLANEOUS PROVI-**
21 **SIONS.**

22 (a) ACCESS TO INFORMATION.—Section 427(a) of the
23 Health Care Quality Improvement Act of 1986 (42 U.S.C.
24 11137(a)) is amended to read as follows:

1 “(a) ACCESS REGARDING LICENSING, EMPLOYMENT,
2 AND CLINICAL PRIVILEGES.—The Secretary (or the agen-
3 cy designated under section 424(b)) shall, upon request,
4 provide information reported under this part concerning
5 a physician or other licensed health care practitioner to—

6 “(1) State licensing boards, and

7 “(2) hospitals and other health services organi-
8 zations—

9 “(A) that have entered (or may be enter-
10 ing) into an employment or affiliation relation-
11 ship with the physician or practitioner, or

12 “(B) to which the physician or practitioner
13 has applied for clinical privileges or appoint-
14 ment to the medical staff.”.

15 (b) FEES.—Section 427(b)(4) of the Health Care
16 Quality Improvement Act of 1986 (42 U.S.C.
17 11137(b)(4)) is amended to read as follows:

18 “(4) FEES.—In disclosing information under
19 subsection (a) or section 426, the Secretary may im-
20 pose fees in amounts reasonably related to the costs
21 of carrying out the duties of the Secretary regarding
22 the information reported under this part (including
23 the functions specified in section 424(b) with respect
24 to the information), except that a fee may not be im-
25 posed for providing a list under section

1 425A(d)(4)(B) to any Board of Medical Examiners.
2 Such fees are available to the Secretary (or, in the
3 Secretary's discretion, to the agency designated
4 under section 424(b)) to cover such costs. Such fees
5 remain available until expended.”.

6 (c) ADDITIONAL DISCLOSURES OF INFORMATION.—
7 Section 427 of the Health Care Quality Improvement Act
8 of 1986 (42 U.S.C. 11137) is amended by adding at the
9 end the following subsection:

10 “(e) AVAILABILITY OF INFORMATION TO PUBLIC.—

11 “(1) IN GENERAL.—Not later than 30 days
12 after the effective date for this subsection under sec-
13 tion 9 of the Health Care Quality Improvement Act
14 Amendments of 1994, and semiannually thereafter,
15 the Secretary shall publish and make available to the
16 public the following information reported under this
17 part:

18 “(A) Information reported under section
19 421, excepting the following:

20 “(i) Information concerning a physi-
21 cian or other licensed health care practi-
22 tioner with respect to whom the number of
23 discrete incidents on which information is
24 required to be submitted under such sec-
25 tion is 1.

1 “(ii) The social security account num-
2 ber of the physician or practitioner.

3 “(iii) Information disclosing the iden-
4 tity of any patient involved in such an inci-
5 dent.

6 “(iv) With respect to information that
7 the Secretary requires under section
8 421(b)(5)—

9 “(I) the home address of the phy-
10 sician or practitioner, and

11 “(II) the number assigned to the
12 physician or practitioner by the Drug
13 Enforcement Administration.

14 “(v) Information not required to be
15 reported under such section.

16 “(B) Information reported under section
17 422(a).

18 “(C) Information reported under section
19 423(b).

20 “(2) DISSEMINATION; FEES.—The Secretary
21 shall disseminate each publication under paragraph
22 (1) to public libraries without charge. In providing
23 the publication to other entities, the Secretary may
24 impose a fee reasonably related to the costs of the
25 Secretary in carrying out this subsection. Such fees

1 are available to the Secretary (or, in the Secretary's
2 discretion, to the agency designated under section
3 424(b)) to cover such costs. Such fees remain avail-
4 able until expended."

5 (d) CONFORMING AMENDMENTS.—Section 427 of the
6 Health Care Quality Improvement Act of 1986 (42 U.S.C.
7 11137) is amended—

8 (1) in subsection (b)(1), in the first sentence,
9 by striking "Information reported" and inserting the
10 following: "Except for information disclosed under
11 subsection (e), information reported"; and

12 (2) in the heading for the section, by striking
13 "**MISCELLANEOUS PROVISIONS**" and inserting
14 the following: "**ADDITIONAL PROVISIONS RE-**
15 **GARDING ACCESS TO INFORMATION; MIS-**
16 **CELLANEOUS PROVISIONS**".

17 **SEC. 7. OTHER MATTERS.**

18 The Health Care Quality Improvement Act of 1986
19 (42 U.S.C. 11101 et seq.) is amended—

20 (1) by redesignating part C as part D; and

21 (2) by inserting after part B the following part:

1 **“PART C—OTHER MATTERS REGARDING**
2 **IMPROVEMENT OF HEALTH CARE QUALITY**
3 **“SEC. 428. PROHIBITION AGAINST SETTLEMENT WITHOUT**
4 **CONSENT OF PRACTITIONER.**

5 “(a) PROHIBITION.—With respect to a physician or
6 other licensed health care practitioner whose acts or omis-
7 sions are the basis of a medical malpractice action or
8 claim, an entity may not make a payment described in
9 section 421(a)(1) without the written consent of the physi-
10 cian or practitioner, subject to subsection (b).

11 “(b) EXCEPTIONS.—Subsection (a) shall not apply
12 with respect to a payment by an entity regarding an action
13 or claim, subject to subsection (c)—

14 “(1) if the payment is made in satisfaction of
15 a judgment in a court of competent jurisdiction,

16 “(2) if, with respect to the action or claim, the
17 physician or other licensed health care practitioner
18 involved enters a process of alternative dispute reso-
19 lution, and the process has been concluded or any of
20 the individuals involved has terminated participation
21 in the process,

22 “(3)(A) the entity delivers directly, or makes a
23 reasonable effort to deliver through the mail, a writ-
24 ten notice to the physician or practitioner involved
25 providing the information specified in subsection (c),
26 and

1 “(B) a 30-day period elapses, at the conclusion
2 of which the entity has a reasonable belief that the
3 physician or practitioner does not object to the pay-
4 ment.

5 “(c) CRITERIA REGARDING NOTICE.—For purposes
6 of subsection (b)(3) regarding a written notice to a physi-
7 cian or practitioner—

8 “(1) the notice shall be considered to have been
9 delivered if the notice was delivered to the home or
10 business address of the physician or practitioner,
11 and to the attorney (if any) representing the physi-
12 cian or practitioner in the action or claim involved,

13 “(2) the notice shall be considered to have been
14 delivered directly if the notice was delivered person-
15 ally by the entity involved or by an agent of the en-
16 tity,

17 “(3) the entity shall be considered to have made
18 a reasonable effort to deliver the notice through the
19 mail if the entity provided the notice through cer-
20 tified mail, with return receipt requested,

21 “(4) the information specified in this paragraph
22 for the notice is that the entity intends to make the
23 payment involved; that the physician or practitioner
24 has a legal right to prohibit the payment; and that

1 such right expires in 30 days, with a specification of
2 the date on which the right expires, and

3 “(5) the 30-day period begins on the date on
4 which the notice is delivered directly to the physician
5 or practitioner, or on the seventh day after the date
6 on which the notice is posted, as the case may be.

7 “(d) CIVIL MONEY PENALTY.—Any entity that
8 makes a payment in violation of subsection (a) shall be
9 subject to a civil money penalty of not more than \$10,000
10 for each such payment involved. Such penalty shall be im-
11 posed and collected in the same manner as civil money
12 penalties under subsection (a) of section 1128A of the So-
13 cial Security Act are imposed and collected under that sec-
14 tion.

15 **“SEC. 429. EMPLOYMENT TERMINATION OF PHYSICIAN.**

16 “(a) REQUIREMENT OF ADEQUATE NOTICE AND
17 HEARING.—

18 “(1) IN GENERAL.—A health services organiza-
19 tion may not terminate the employment of a physi-
20 cian, and may not terminate a contract with a physi-
21 cian for the provision of health services, unless ade-
22 quate notice and hearing procedures have been af-
23 forded the physician involved.

24 “(2) APPLICABILITY.—Section 412(a)(3) ap-
25 plies in lieu of paragraph (1) in the case of an em-

1 employment termination that is a professional review
2 action. (With respect to the preceding sentence,
3 paragraph (1) does apply to an employment termi-
4 nation that is an action described in subparagraph
5 (A) of section 431(10) or in the other subpara-
6 graphs of such section.)

7 “(b) SAFE HARBOR.—

8 “(1) IN GENERAL.—A health services organiza-
9 tion is deemed to have met the adequate notice and
10 hearing requirement of subsection (a) with respect
11 to the employment of, or a contract of, a physician
12 if the conditions described in paragraphs (2)
13 through (4) are met (or are waived voluntarily by
14 the physician).

15 “(2) NOTICE OF PROPOSED ACTION.—Condi-
16 tions under paragraph (1) are that the physician in-
17 volved has been given notice stating—

18 “(A)(i) that the health services organiza-
19 tion proposes to take action to terminate the
20 employment or contract,

21 “(ii) reasons for the proposed action,

22 “(B)(i) that the physician has the right to
23 request a hearing on the proposed action,

1 “(ii) any time limit (of not less than 30
2 days) within which to request such a hearing,
3 and

4 “(C) a summary of the rights in the hear-
5 ing under paragraph (4).

6 “(3) NOTICE OF HEARING.—Conditions under
7 paragraph (1) are that, if a hearing is requested on
8 a timely basis under paragraph (2)(B), the physician
9 involved must be given notice stating—

10 “(A) the place, time, and date, of the hear-
11 ing, which date shall not be less than 30 days
12 after the date of the notice, and

13 “(B) a list of the witnesses (if any) ex-
14 pected to testify at the hearing on behalf of the
15 health services organization.

16 “(4) CONDUCT OF HEARING AND NOTICE.—
17 Conditions under paragraph (1) are that, if a hear-
18 ing is requested on a timely basis under paragraph
19 (2)(B)—

20 “(A) subject to subparagraph (B), the
21 hearing shall be held (as determined by the
22 health services organization)—

23 “(i) before an arbitrator mutually ac-
24 ceptable to the physician involved and the
25 health services organization,

1 “(ii) before a hearing officer who is
2 appointed by the organization and who is
3 not in direct economic competition with the
4 physician, or

5 “(iii) before a panel of individuals who
6 are appointed by the organization and are
7 not in direct economic competition with the
8 physician,

9 “(B) the right to the hearing may be for-
10 feited if the physician fails, without good cause,
11 to appear,

12 “(C) in the hearing the physician has the
13 right—

14 “(i) to representation by an attorney
15 or other person of the physician’s choice,

16 “(ii) to have a record made of the
17 proceedings, copies of which may be ob-
18 tained by the physician upon payment of
19 any reasonable charges associated with the
20 preparation thereof,

21 “(iii) to call, examine, and cross-ex-
22 amine witnesses,

23 “(iv) to present evidence determined
24 to be relevant by the hearing officer, re-

1 gardless of its admissibility in a court of
2 law, and

3 “(v) to submit a written statement at
4 the close of the hearing, and

5 “(D) upon completion of the hearing, the
6 physician has the right—

7 “(i) to receive the written rec-
8 ommendation of the arbitrator, officer, or
9 panel, including a statement of the basis
10 for the recommendations, and

11 “(ii) to receive a written decision of
12 the health services organization, including
13 a statement of the basis for the decision.

14 “(c) RULE OF CONSTRUCTION.—A health services or-
15 ganization’s failure to meet the conditions described in
16 paragraphs (2) through (4) of subsection (b) shall not, in
17 itself, constitute failure to meet the standards of sub-
18 section (a).”.

19 **SEC. 8. DEFINITIONS.**

20 Section 431(6) of the Health Care Quality Improve-
21 ment Act of 1986, as redesignated by section 3(b)(1) of
22 this Act, is amended by inserting before the period the
23 following: “(except that such term means an institution
24 described in such paragraph (1) (without regard to such
25 paragraph (7)) if, under applicable State or local law, the

1 institution is permitted to operate without being licensed
2 or otherwise approved as a hospital)''.

3 **SEC. 9. EFFECTIVE DATES.**

4 (a) INCORPORATION OF TEXT OF AMENDMENTS.—
5 The amendments described in this Act are made upon the
6 date of the enactment of this Act.

7 (b) SUBSTANTIVE EFFECT.—Except as provided in
8 subsection (c)(1) and subsection (d), and except as other-
9 wise provided in this Act—

10 (1) the amendments made by this Act take ef-
11 fect upon the expiration of the 1-year period begin-
12 ning on the date of the enactment of this Act; and

13 (2) prior to the expiration of such period, the
14 Health Care Quality Improvement Act of 1986, as
15 in effect on the day before such date of enactment,
16 continues in effect.

17 (c) REGULATIONS.—

18 (1) IN GENERAL.—With respect to the amend-
19 ments made by this Act, the Secretary of Health
20 and Human Services may issue regulations pursuant
21 to such amendments before the expiration of the pe-
22 riod specified in subsection (b), and may otherwise
23 take appropriate action before the expiration of such
24 period to prepare for the responsibilities of the Sec-
25 retary pursuant to the amendments.

1 (2) ABSENCE OF FINAL RULE.—The final rule
2 for purposes of paragraph (1) may not take effect
3 before the expiration of the period specified in sub-
4 section (b), and the absence of such a rule upon
5 such expiration does not affect the provisions of sub-
6 section (b).

7 (d) TRANSITIONAL PROVISIONS REGARDING MAL-
8 PRACTICE PAYMENTS BY PERSONS.—With respect to the
9 reporting of information under section 421 of the Health
10 Care Quality Improvement Act of 1986, the following ap-
11 plies:

12 (1) The requirement of reporting by persons
13 under section 421(a)(1) of such Act (as amended by
14 section 3(a) of this Act) takes effect 180 days after
15 the date of the enactment of this Act.

16 (2) The requirement of reporting by persons
17 applies to payments under such section 421(a)(1)
18 made before, on, or after such date of enactment.

19 (3)(A) The information received by the Sec-
20 retary of Health and Human Services on or before
21 August 27, 1993, pursuant to regulations requiring
22 reports from persons (in addition to reports from en-
23 tities) shall be maintained in the same manner as
24 the information was maintained prior to such date,
25 and shall be available in accordance with the regula-

1 tions in effect under such Act prior to such date
2 (which regulations remain in effect unless a provi-
3 sion of this Act takes effect pursuant to this section
4 and requires otherwise).

5 (B) Subparagraph (A) takes effect on the date
6 of the enactment of this Act.

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